THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 3rd day of October,2007

W.P.No.11906 of 1999

Between:-

Meda Venkata Kumara Swamy … Petitioner

and

The Managing Director, Tribal
Cooperative Marketing Development
Federation of India Limited (TRIFED)
Ministry of Welfare, Government of India,
New Delhi … Respondent

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the impugned Order of dismissal in Proceedings No.TFD/HO/DP/96/2877, dated 4-7-1996 of the respondent and quash the same as arbitrary and illegal.

It appears, while the petitioner was working as Assistant Manager in Tribal Cooperative Marketing Development Federation of India Limited (TRIFED), Ministry of Welfare, Government of India, New Delhi, he was charge sheeted for certain irregularities purported to have been committed by him and an Enquiry Officer was appointed to conduct enquiry. Thereafter, he submitted a report holding the petitioner guilty of the charges. The disciplinary authority accepted the report of the Enquiry Officer and finally imposed the punishment of dismissal from service by an Order dated 2-7-1996, which was communicated through the impugned Proceedings dated 4-7-1996. Aggrieved by the same, the present Writ Petition is filed.

There is no necessity of going into all the details. It is suffice to notice that first time, the Enquiry Officer sent a notice dated 15-3-1996, which was purported to have been received by the petitioner on 21-3-1996 asking him to appear for enquiry on 29-4-1996. According to the respondent, petitioner did not appear before the Enquiry Officer on 29-4-1996. Whereas, it is the case of the petitioner that he sent a letter on 27-4-1996 seeking to postpone the

enquiry and requesting to fix up a date in the third week of May,1996 for conducting enquiry, which, again is disputed by the respondent-Management stating that no such letter was received by them. May be, the petitioner has not attended the enquiry on 29-4-1996. But, the Enquiry Officer, adjourned the enquiry to 30-4-1996 and again to 1-5-1996 and conducted *ex parte* enquiry and submitted a report holding the petitioner guilty, which was accepted by the disciplinary authority.

I am of the opinion that even in a case where the enquiry was held on 29-4-1996, even though a notice was received by the petitioner and did not attend the enquiry, but that does not entitle the Enquiry Officer to postpone the enquiry to 30-4-1996 and again to 1-5-1996 and conduct an *ex parte* enquiry without intimating the postponement of the date of enquiry to 30-4-1996 and 1-5-1996. Therefore, I am of the opinion that the enquiry was conducted in gross in violation of principles of natural justice and the Order of dismissal, which is solely based on the report of the Enquiry Officer, cannot stand the scrutiny of law. As such, the impugned Order is liable to be set aside and is accordingly set aside. Petitioner is entitled for all the consequential benefits, such as, reinstatement into service etc. However, this will not preclude the respondents from conducting a detailed enquiry into the matter, after affording opportunity to the petitioner, as per law.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

03-10-2007

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